

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EUGENE KENNETH JONES,)	
)	
Plaintiff,)	
)	
v.)	No. 4:09CV118 HEA
)	
MARVIN JOHNSON, et al.,)	
)	
Defendants.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on the remand from the United States Court of Appeals for the Eighth Circuit to calculate and collect appellate filing fees pursuant to *Henderson v. Norris*, 129 F.3d 481 (8th Cir. 1997).

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner appealing a civil action in forma pauperis is required to pay the full amount of the appellate filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will

forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. *Id.*

Plaintiff has submitted an affidavit and a certified copy of his prison account statement for the six-month period immediately preceding the submission of his notice of appeal. A review of plaintiff's account indicates an average monthly deposit of \$7.50, and an average monthly balance of \$0.02. Plaintiff has insufficient funds to pay the entire filing fee. Accordingly, the Court will assess an initial partial filing fee of \$1.50, which is 20 percent of plaintiff's average monthly deposit.

Accordingly,

IT IS HEREBY ORDERED that the plaintiff shall pay an initial filing fee of \$1.50 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an appellate proceeding.

Dated this 13th day of January, 2010.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE